

LAW OFFICES OF

FREEBORN & PETERS

US EPA RECORDS CENTER REGION 5



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ROBERT M. BARATTA, JR.

DIRECT: (312) 360-6622

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February 10, 1997

Via Federal Express

Ms. Arlene Lilly
United States Environmental
Protection Agency
Region 5
Emergency Enforcement & Support
Section SE-5J
77 West Jackson Boulevard
Chicago, Illinois 60604

Re: *Dayton Electroplate, Inc.*
General Notice of Potential Liability and
Request for Information

Dear Ms. Lilly:

We represent Charles J. Borum ("Mr. Borum") with regard to the captioned matter. Mr. Borum only recently received the October 30, 1996 General Notice of Potential Liability and Request for Information ("Notice"). The Notice originally was sent to Mr. Borum at the Dayton Electroplate, Inc. ("Dayton") facility. As we discuss below, Dayton filed for bankruptcy in April 1996, at which time Mr. Borum was not permitted to return to the facility. Therefore, the Notice was not received by Mr. Borum at the facility.

With regard to the Notice, enclosed is a copy of Mr. Borum's responses to the Requests for Information issued pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"). Additionally, Mr. Borum responds as follows to the General Notice of Potential Liability.

Mr. Borum was the president and shareholder of Dayton. Dayton was incorporated in 1984 and conducted electroplating operations at 1030 Valley Street, Dayton, Ohio (the "Site"). The Site was owned and operated by Dayton. In April 1996, Dayton filed for bankruptcy protection under Chapter 7 of the United States Bankruptcy Code. Since that time, Mr. Borum and other employees

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of Dayton have not been permitted to enter the Site or conduct any activities at the Site or otherwise on behalf of Dayton. Since the filing of the bankruptcy proceedings, the bankruptcy trustee, Donald F. Harker of Dayton, Ohio, has been responsible for managing the operations of Dayton. Shortly after Dayton filed for bankruptcy, Mr. Borum emphasized to Mr. Harker that there were chemicals and other materials in the facility that required appropriate management. Mr. Harker confirmed that he understood the nature of the material within the facility.

Notwithstanding claims to the contrary in the Notice, Mr. Borum is not the owner or operator of the Site, nor has Mr. Borum arranged for the disposal of any hazardous substances at the Site. Mr. Borum is not a liable party under CERCLA and objects to the characterization of him as a potentially responsible party under CERCLA. Additionally, Mr. Borum has very few assets and currently lives on social security and the modest earnings of his wife. Accordingly, Mr. Borum is not capable of voluntarily performing or financing the work described in the Notice or reimbursing the United States Environmental Protection Agency ("U.S. EPA") for costs it has incurred to date.

Please understand that Mr. Borum is willing to assist U.S. EPA in whatever non-monetary, reasonable way he can. However, because of Mr. Borum's financial status and the pending bankruptcy of Dayton, Mr. Borum simply cannot provide financial assistance towards the response activities to be conducted at the Site.

Future correspondence should be directed to me. Please call me with any questions or comments.

Sincerely,

A handwritten signature in black ink that reads "Robert M. Baratta, Jr." in a cursive script.

Robert M. Baratta, Jr.

RMB:nks
Enclosure

cc: Charles J. Borum
Jose C. de Leon, Esq.

**CHARLES J. BORUM'S RESPONSES TO
REQUEST FOR INFORMATION REGARDING
DAYTON ELECTROPLATE SITE**

Charles J. Borum ("Mr. Borum") objects to the following requests for information to the extent that they request information protected by the attorney-client privilege or work product doctrine. Mr. Borum responds to the requests for information as follows.

REQUEST:

Copies of all shipping documents or other business documents relating to the transportation, storage and/or disposal of waste materials or substances at the above referenced Site.

RESPONSE:

Mr. Borum does not have in his custody or control any shipping documents or other business documents relating to the transportation, storage and/or disposal of waste materials or substances at the referenced Site.

REQUEST NO. 1:

A detailed description of the generic or common and/or trade name and the chemical composition and character (i.e. liquid, solid, sludge) of the waste material offered by you or transported by you to the above referenced Site.

RESPONSE:

Mr. Borum and Dayton Electroplate, Inc. have never offered or transported any waste material to the referenced Site.

REQUEST NO. 2:

For each hazardous substance above, please give the total volume, in gallons for liquids and in cubic meters for solids, for which you arranged for disposal and list when those substances were transported to the above referenced Site.

RESPONSE:

Mr. Borum and Dayton Electroplate, Inc. have never arranged for disposal or transport of any hazardous substances at or to the referenced Site.

REQUEST NO. 4:

What arrangements were made to transport the hazardous substances which were taken to the above referenced Site? What types of transportation was used (i.e. tankers, dump trucks, drums)?

RESPONSE:

Dayton Electroplate, Inc. arranged to have various materials transported to the Dayton Electroplate Site for use in its electroplating operations. In the last several years, these products included:

- Caustic soda
- Muriatic acid
- Sulfuric acid
- Nitric acid
- Flocculent
- Bleach
- Cyanide pellets
- Zinc anodes
- Chromate solution
- Zinc cobalt
- Polyvinyl di-n-chloride

These products were delivered to Dayton Electroplate, Inc. in U.S. Department of Transportation specified containers, including drums and hardboard boxes with plastic liners. Mr. Borum was not responsible for making arrangements for transportation of these products to the facility and has not maintained any documents regarding such transportation or delivery. The products transported to the Dayton Electroplate Site were virgin products and were not solid wastes. Solid wastes were not transported to the Dayton Electroplate Site for any purpose.

REQUEST NO. 5:

Who were the generators of hazardous substances you transported, and provide their current address?

RESPONSE:

Mr. Borum and Dayton Electroplate, Inc. never transported hazardous substances.

REQUEST NO. 6:

Copies of all records, including analytical results, and material safety data sheets, which indicate the identity, amounts and chemical composition and/or chemical character of the waste material(s) transported to, stored or disposed of at the above referenced Site or offered for transportation to, storage or disposal at the Site.

RESPONSE:

Waste materials were not transported to or disposed of at the Dayton Electroplate Site or offered for any such purpose. Waste materials were accumulated at the Site. Mr. Borum does not have custody or control of any records regarding the accumulation of waste materials at the Site.

REQUEST NO. 7:

A list description of all liability insurance coverage that is and was carried by you including any self insurance coverage provisions, that relates to hazardous substances and/or the above referenced Site and copies of all of these insurance policies.

RESPONSE:

Mr. Borum does not have custody or control of any insurance policies maintained by Dayton Electroplate, Inc. Mr. Borum does not recall the name of Dayton Electroplate, Inc.'s insurance company. Mr. Borum does recall that Dayton Electroplate, Inc.'s insurance broker was Koverman Insurance in Troy, Ohio.

REQUEST NO. 8:

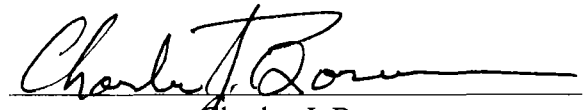
For each hazardous substance please give the location at which it was disposed on the Site. Please include a map of the Site with the locations on it.

RESPONSE:


To the best of Mr. Borum's knowledge and belief, no hazardous substances were disposed on the Site.

NOTARIZED CERTIFICATE

I, Charles J. Borum, having been duly sworn, hereby certify that the attached responses to U.S. EPA's Request for Information are true and accurate to the best of my knowledge and belief.


Charles J. Borum

Subscribed and sworn to me this 7th day of February, 1997.


Notary Public

My Commission Expires _____

